

EMERGENCY

City of Cincinnati

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An Ordinance No. 44

- 2023

**AUTHORIZING** the City Manager to execute a *Lease Agreement* with Fifth Third Bank pursuant to which the City will lease for a term of up to 10 years a portion of City-owned property known as Smale Riverfront Park in the Central Business District for the purpose of operating an ATM thereon.

WHEREAS, the City of Cincinnati owns certain real property commonly known as Smale Riverfront Park located in the Central Business District (“Park”), which is under the management and control of the Board of Park Commissioners for the City of Cincinnati (“Park Board”); and

WHEREAS, pursuant to a *Lease Agreement* authorized by Ordinance No. 500-2012, passed by Council on December 19, 2012, Fifth Third Bank, a National Association (“Lessee”), leases a portion of the Park for the purpose of operating an ATM thereon, as shown on the *Lease Agreement* attached to this ordinance as Attachment A and incorporated herein by reference (“Leased Premises”), and Lessee desires to enter a new lease on the terms and conditions, as more particularly detailed on Attachment A; and

WHEREAS, the City Manager, in consultation with the Park Board, has determined that (i) the Leased Premises is not needed for municipal purposes for the duration of the lease, and (ii) leasing the Leased Premises to Lessee is not adverse to the City’s retained interest in the Leased Premises or the Park; and

WHEREAS, the City’s Real Estate Services Division has determined by appraisal that the fair market rental value of the Leased Premises is approximately \$10,000 per year, which Lessee has agreed to pay; and

WHEREAS, pursuant to Section 331-5, Cincinnati Municipal Code, Council may authorize the lease of City-owned property without competitive bidding in those cases in which it determines that it is in the best interest of the City; and

WHEREAS, the Park Board approved the *Lease Agreement* at its meeting on January 19, 2023; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the lease of the Leased Premises at its meeting on October 7, 2022; now, therefore,

**BE IT ORDAINED** by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is hereby authorized to execute a *Lease Agreement* with Fifth Third Bank, a National Association (“Lessee”), in substantially the form attached as Attachment A to this ordinance and incorporated herein by reference, pursuant to which the City of Cincinnati will lease for a term of up to 10 years a portion of Smale Riverfront Park, as more particularly depicted in the *Lease Agreement* (“Leased Premises”) for purposes of operating an ATM thereon.

Section 2. That the Leased Premises is not needed for municipal purposes for the duration of the lease.

Section 3. That leasing the Leased Premises to Lessee is not adverse to the City’s retained interest in the Leased Premises.

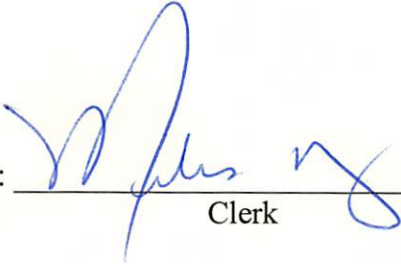
Section 4. That eliminating competitive bidding in connection with the City’s lease of the Leased Premises is in the best interest of the City because Lessee presently leases the Leased Premises from the City and has been a good and responsible tenant, and the City desires to retain Lessee as a tenant.

Section 5. That the fair market value of the lease, as determined by appraisal by the City’s Real Estate Services Division, is approximately \$10,000 per year, which Lessee has agreed to pay.

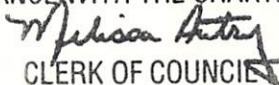
Section 6. That the proper City officials are hereby authorized to take all necessary and proper actions to carry out the provisions and intent of this ordinance and the *Lease Agreement*, including executing any and all ancillary documents associated with the *Lease Agreement*, such as amendments or supplements to the *Lease Agreement* deemed by the City Manager to be in the vital and best interests of the City.

Section 7. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to execute the *Lease Agreement* so that the City of Cincinnati may receive the economic and noneconomic benefits of the *Lease Agreement* at the earliest time.

Passed: February 8, 2023

Attest:   
Clerk

  
Aftab Pureval, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 44-2023  
WAS PUBLISHED IN THE CITY BULLETIN  
IN ACCORDANCE WITH THE CHARTER ON 2/21/2023  
  
CLERK OF COUNCIL